



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2018-0064]

RIN 1625-AA08

Special Local Regulations; Sector Ohio Valley Annual and Recurring Special Local Regulations Update

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard amends its special local regulations for recurring marine parades, regattas, and other events in the Coast Guard Sector Ohio Valley area of responsibility. This rule adds 17 new recurring special local regulations, removes 9 special local regulations, and amends the name of an events/sponsors, dates, and/or locations of regulated areas for 48 recurring special local regulations already listed in the current table. This action is necessary to protect spectators, participants, and vessels from the hazards associated with annual marine events. This regulation restricts vessel traffic from the designated areas during the events unless authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the

docket, go to <http://www.regulations.gov>, type USCG-2018-0064 in the “SEARCH” box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Petty Officer Joshua Herriott, Sector Ohio Valley, U.S. Coast Guard; telephone (502) 779-5343, e-mail Joshua.R.Herriott@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
COTP	Captain of the Port Sector Ohio Valley
DHS	Department of Homeland Security
<i>FR</i>	<i>Federal Register</i>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Captain of the Port Sector Ohio Valley (COTP) amends 33 CFR 100.801 to update the table of annual recurring special local regulations in Coast Guard Sector Ohio Valley. These events include air shows, regattas, and other marine related events requiring a limited access area restricting vessel traffic for safety purposes.

On April 3, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulations; Sector Ohio Valley Annual and Recurring Special Local Regulations Update (83 FR 14219). During the comment period that ended on April 18, 2018, we received two comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the *Federal Register*. Delaying the effective date of this rule would be impracticable and contrary to the public interest

because immediate action is necessary to respond to the potential safety hazards associated with these marine events.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. Based on the nature of these marine events, large numbers of participants and spectators, and event locations, the COTP has determined that the potential hazards associated with the events listed in this rule could pose a risk to participants or waterways users if the normal vessel traffic were to interfere with the events. Possible hazards include risks of injury or death from near or actual contact among participant vessels and spectators or mariners traversing through the regulated area. This purpose of this rule is to ensure the safety of all waterway users, including event participants, spectators, and vessels during these scheduled events.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received two comments on our NPRM published April 3, 2018. Both comments were unrelated to the subject matter of this rulemaking. There is one technical amendment that changes the table heading in regulatory text of this rule from the proposed rule on the NPRM.

This rule amends the special local regulations for annual events in Coast Guard Sector Ohio Valley area of responsibility as listed in Table 1 of 33 CFR 165.801 by adding 17 new recurring special local regulations, removing 9 special local regulations no longer recurring, and amending the names of events/sponsors, dates, and/or the locations of regulated areas for 48 recurring special local regulations already listed in the current table. Although this regulation would be in effect year-round, the specific special local

regulations listed in Table 1 of 33 CFR 100.801 would only be enforced during the specified period of time of annual events listed. In accordance with the regulations listed in 33 CFR 100.801(a)-(j), entry into these regulated areas is prohibited unless authorized by the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated as a “significant regulatory action,” under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget, and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the special local regulations. These areas are limited in size and duration, and usually do not affect high vessel traffic areas. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the regulated areas, and the rule allows vessels to seek permission to enter the areas.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires

Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator. Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an

expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. Normally such actions are categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated in the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, and Waterways.

For the reasons discussed in the preamble, the U.S. Coast Guard amends 33 CFR part 100 as follows:

PART 100— SAFETY OF LIFE ON NAVIGABLE WATERWAYS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 33 CFR 1.05-1.

2. In §100.801, revise Table 1 to read as follows:

§100.801 Annual Marine Events in the Eighth Coast Guard District.

Table 1 to §100.801 -- Sector Ohio Valley Annual and Recurring Marine Events

Date	Event/sponsor	Ohio Valley location	Regulated area
1. 1 day— During the last week of April or first week of May	Kentucky Derby Festival/Belle of Louisville Operating Board/Great Steamboat Race	Louisville, KY	Ohio River, Mile 595.0-605.3 (Kentucky).
2. 1 day— Third weekend in May	World Triathlon Corporation/IRONMAN 70.3	Chattanooga, TN	Tennessee River, Mile 462.7-467.5 (Tennessee).
3. 1 day— Third or fourth weekend in June	Greater Morgantown Convention and Visitors Bureau/Mountaineer Triathlon	Morgantown, WV	Monongahela River, Mile 101.0-102.0 (West Virginia).
4. 2 days— First weekend of June	Thunder on the Bay/KDBA	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
5. 1 day- One of the first two weekends in August	Green Umbrella/Ohio River Paddlefest	Cincinnati, OH	Ohio River, Mile 458.5-476.4 (Ohio and Kentucky).
6. 1 day— Fourth or fifth Sunday in September	Green Umbrella/Great Ohio River Swim	Cincinnati, OH	Ohio River, Mile 468.8-471.2 (Ohio and Kentucky).
7. 1 day—One of the last two weekends in September	Ohio River Open Water Swim	Prospect, KY	Ohio River, Mile 587.0-591.0 (Kentucky).

8. 2 days— One of the first three weekends in September	Louisville Dragon Boat Festival	Louisville, KY	Ohio River, Mile 602.0-604.5 (Kentucky).
9. 1 day— Third or fourth Sunday of July	Tucson Racing/Cincinnati Triathlon	Cincinnati, OH	Ohio River, Mile 468.3-471.2 (Ohio).
10. 2 days— One of the first two weekends in July	Thunder on the Bay/KDBA	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
11. 1 day— Second weekend in July	Bradley Dean/Renaissance Man Triathlon	Florence, AL	Tennessee River, Mile 254.0-258.0 (Alabama).
12. 3 days— The last weekend in June or one of the first two weekends in July	Madison Regatta, Inc./Madison Regatta	Madison, IN	Ohio River, Mile 554.0-561.0 (Indiana).
13. 1 day— One weekend in June	Louisville Race the Bridge Triathlon	Louisville, KY	Ohio River, Mile 600.5-604.0 (Kentucky).
14. 1 day— Fourth weekend in June	Team Magic/Chattanooga Waterfront Triathlon	Chattanooga, TN	Tennessee River, Mile 462.7-466.0 (Tennessee).
15. 1 day— Fourth weekend in July	Team Magic/Music City Triathlon	Nashville, TN	Cumberland River, Mile 189.7-192.3 (Tennessee).
16. 2 days— Last two weeks in July or first three weeks of August	Friends of the Riverfront Inc./Pittsburgh Triathlon and Adventure Races	Pittsburgh, PA	Allegheny River, Mile 0.0-1.5 (Pennsylvania).

17. 3 days— First week of August	EQT Pittsburgh Three Rivers Regatta	Pittsburgh, PA	Ohio River, Mile 0.0- 0.5, Allegheny River, Mile 0.0-0.6, and Monongahela River, Mile 0.0- 0.5(Pennsylvania).
18. 2 days— First weekend of August	Thunder on the Bay/KDBA	Pisgah Bay, KY	Tennessee River, Mile 30.0 (Kentucky).
19. 2 days— One of the last three weekends in September or the first weekend in October	Captain Quarters Regatta	Louisville, KY	Ohio River, Mile 594.0-598.0 (Kentucky).
20. 2 days— One of the first three weekends in October	Norton Healthcare/Ironman Triathlon	Louisville, KY	Ohio River, Mile 600.5-605.5 (Kentucky).
21. 2 days— Third full weekend (Saturday and Sunday) in August	Ohio County Tourism/Rising Sun Boat Races	Rising Sun, IN	Ohio River, Mile 504.0-508.0 (Indiana and Kentucky).
22. 1 day— Last weekend in August	Tennessee Clean Water Network/Downtown Dragon Boat Races	Knoxville, TN	Tennessee River, Mile 646.3-648.7 (Tennessee).
23. 3 days— One weekend in August	Pro Water Cross Championships	Charleston, WV	Kanawha River, Mile 56.7-57.6 (West Virginia).
24. 2 days— One weekend in July	Huntington Classic Regatta	Huntington, WV	Ohio River, Mile 307.3-309.3 (West Virginia).
25. 2 days— Labor Day weekend	Wheeling Vintage Race Boat Association Ohio/Wheeling Vintage Regatta	Wheeling, WV	Ohio River, Mile 90.4- 91.5 (West Virginia).

26. 2 days— weekend before Labor Day	SUP3Rivers The Southside Outside	Pittsburgh, PA	Monongahela River, Mile 0.0-3.09 Allegheny River Mile 0.0-0.25 (Pennsylvania).
27. 1 day— One of the first three weekends in September	Cumberland River Compact/Cumberland River Dragon Boat Festival	Nashville, TN	Cumberland River, Mile 189.7-192.1 (Tennessee).
28. 2 days— One of the first three weekends in September	State Dock/Cumberland Poker Run	Jamestown, KY	Lake Cumberland (Kentucky).
29. 3 days— One of the first three weekends in September	Sailing for a Cure Foundation/SFAC Fleur de Lis Regatta	Louisville, KY	Ohio River, Mile 600.0-605.0 (Kentucky).
30. 1 day— Last weekend in September	World Triathlon Corporation/IRONMAN Chattanooga	Chattanooga, TN	Tennessee River, Mile 462.7-467.5 (Tennessee).
31. 1 day— Second weekend in September	City of Clarksville/Clarksville Riverfest Cardboard Boat Regatta	Clarksville, TN	Cumberland River, Mile 125.0-126.0 (Tennessee).
32. 2 days— First weekend of October	Three Rivers Rowing Association/Head of the Ohio Regatta	Pittsburgh, PA	Allegheny River, Mile 0.0-4.0 (Pennsylvania).
33. 1 day— First or second weekend in October	Lookout Rowing Club/Chattanooga Head Race	Chattanooga, TN	Tennessee River, Mile 463.0-468.0 (Tennessee).
34. 3 days— First weekend in November	Atlanta Rowing Club/Head of the Hooch Rowing Regatta	Chattanooga, TN	Tennessee River, Mile 463.0-468.0 (Tennessee).
35. One Saturday in June or July	Paducah Summer Festival/Cross River Swim	Paducah, KY	Ohio River, Mile 934- 936 (Kentucky).

36. 1 day— During the last weekend in May or on Memorial Day	Louisville Metro Government/Mayor's Healthy Hometown Subway Fresh Fit, Hike, Bike and Paddle	Louisville, KY	Ohio River, Mile 601.0-604.5 (Kentucky).
37. 3 days— One of the last three weekends in June	Hadi Shrine/Evansville Shriners Festival/Freedom Festival	Evansville, IN	Ohio River, Mile 790.0-796.0 (Indiana).
38. 1 day— During the first week of July	Evansville Freedom Celebration/4th of July Freedom Celebration	Evansville, IN	Ohio River, Mile 790.0-797.0 (Indiana).
39. 1 day— First weekend in September or on Labor Day	Louisville Metro Government/Mayor's Healthy Hometown Subway Fresh Fit, Hike, Bike and Paddle	Louisville, KY	Ohio River, Mile 601.0-610.0 (Kentucky).
40. 2 days— One of the last three weekends in July	Dare to Care/KFC Mayor's Cup Paddle Sports Races/Voyageur Canoe World Championships	Louisville, KY	Ohio River, Mile 600.0-605.0 (Kentucky).
41. 3 days— One of the last two weekends in August	Kentucky Drag Boat Association/Thunder on the Green	Livermore, KY	Green River, Mile 69.0-72.5 (Kentucky).
42. 1 day— Fourth weekend in August	Team Rocket Tri-Club/Rocketman Triathlon	Huntsville, AL	Tennessee River, Mile 332.2-335.5 (Alabama).
43. 3 days— One of the last three weekends in September or first weekend in October	Hadi Shrine/Owensboro Air Show	Owensboro, KY	Ohio River, Mile 754.0-760.0 (Kentucky).
44. 1 day— Last weekend in July or first weekend in	HealthyHuntington.org/St. Marys Tri-state Triathlon	Huntington, WV	Ohio River, Mile 307.3-308.3 (West Virginia).

August			
45. 2 days— Sunday before Labor Day and Labor Day	Cincinnati Bell, WEBN, and Proctor and Gamble/Riverfest	Cincinnati, OH	Ohio River, Mile 463.0-477.0 (Kentucky and Ohio) and Licking River Mile 0.0-3.0 (Kentucky).
46. 1 Day- One Sunday in September	Ohio River Sternwheel Festival Committee Sternwheel race reenactment	Marietta, OH	Ohio River, Mile 170.5-172.5 (Ohio).
47. 1 Day – One Saturday in September or One weekend in September	Parkesburg Paddle Fest	Parkersburg, WV	Ohio River, Mile 184.3-188 (West Virginia).
48. 3 Days- Last weekend of September and/or first weekend in October	New Martinsville Records and Regatta Challenge Committee	New Martinsville, WV	Ohio River, Mile 128- 129 (West Virginia).
49. First weekend in July	Eddyville Creek Marina/Thunder Over Eddy Bay	Eddyville, KY	Cumberland River, Mile 46.0-47.0 (Kentucky).
50. First or second weekend of July	Prizer Point Marina/4th of July Celebration	Cadiz, KY	Cumberland River, Mile 54.0-55.09 (Kentucky).
51. 2 days-last weekend in May or first weekend in June	Visit Knoxville/Racing on the Tennessee	Knoxville, TN	Tennessee River, Mile 647.0-648.0 (Tennessee).
52. 1 day— First or second weekend in August	Riverbluff Triathlon	Ashland City, TN	Cumberland River, Mile 157.0-159.0 (Tennessee).

53. 2 days – One weekend in August	POWERBOAT NATIONALS - Ravenswood Regatta	Ravenswood, WV	Ohio River, Mile 220.5-221.5 (West Virginia)
54. 3 days- One of the last three weekends in June	Lawrenceburg Regatta/Whiskey City Regatta	Lawrenceburg, IN	Ohio River, Mile 491.0-497.0 (Indiana)
55. 2 days – One of the last three weekends in September	Madison Vintage Thunder	Madison, IN	Ohio River, Mile 556.5-559.5 (Indiana)
56. 1 day- Third weekend in March	Vanderbilt Rowing/Vanderbilt Invite	Nashville, TN	Cumberland River, Mile 188.0- 192.7(Tennessee)
57. 3 days – First or Second weekend in October	Vanderbilt Rowing/Music City Head Race	Nashville, TN	Cumberland River, Mile 189.5-196.0 (Tennessee)
58. 3 days- Third weekend in June	TM Thunder LLC/Thunder on the Cumberland	Nashville, TN	Cumberland River, Mile 189.6-192.3 (Tennessee)
59. 3 days- Second weekend in May	Vanderbilt Rowing/ACRA Henley	Nashville, TN	Cumberland River, Mile 188.0-194.0 (Tennessee)
60. 2 days – Third weekend in August	Kittanning Riverbration Boat Races	Kittanning, PA	Allegheny River, Mile 44.0-45.5 (Pennsylvania)
61. 2 days- Third Friday and Saturday in April	Thunder Over Louisville	Louisville, KY	Ohio River, Mile 597.0-604.0 (Kentucky)
62. 3 days- The last weekend in August or one of the first two weekends in September	Evansville HydroFest	Evansville, IN	Ohio River, Mile 790.5-794.0

63. 2 days – One weekend in July	Marietta Riverfront Roar Regatta	Marietta, OH	Ohio River, Mile 171.6-172.6 (Ohio)
64. 1 day- One weekend in November or December	Charleston Lighted Boat Parade	Charleston, WV	Kanawha River, Mile 54.3-60.3 (West Virginia)
65. 1 day – One weekend in August	YMCA River Swim	Charleston, WV	Kanawha River, Mile 58.3-60.3 (West Virginia)
66. 1 day- One weekend in April	Lindamood Cup	Marietta, OH	Muskingum River, Mile 0.5-1.5 (Ohio)
67. 2 days- One weekend in June	New Martinsville Vintage Regatta	New Martinsville, WV	Ohio River Mile 127.5-128.5 (West Virginia)
68. 3 days- One weekend in August	Grand Prix of Louisville	Louisville, KY	Ohio River, Mile 601.0-605.0 (Kentucky)
69. 2 days - Fourth weekend in March	Oak Ridge Rowing Association/ Atomic City Turn and Burn	Oak Ridge, TN	Clinch River, Mile 48.5-52.0 (Tennessee)
70. 3 days - Second or third weekend in March	Oak Ridge Rowing Association/ Cardinal Invitational	Oak Ridge, TN	Clinch River, Mile 48.5-52.0 (Tennessee)
71. 3 days - Third weekend in April	Oak Ridge Rowing Association/ SIRA Regatta	Oak Ridge, TN	Clinch River, Mile 48.5-52.0 (Tennessee)
72. 3 days - Fifth weekend in April	Oak Ridge Rowing Association/ Dogwood Junior Regatta	Oak Ridge, TN	Clinch River, Mile 48.5-52.0 (Tennessee)
73. 3 days - Second weekend in May	Oak Ridge Rowing Association/ Big 12 Championships	Oak Ridge, TN	Clinch River, Mile 48.5-52.0 (Tennessee)
74. 3 days -	Oak Ridge Rowing Association/	Oak Ridge, TN	Clinch River, Mile

Third weekend in May	Dogwood Masters		48.5-52.0 (Tennessee)
75. 1 day - First weekend in June	Visit Knoxville/Knoxville Powerboat Classic	Knoxville, TN	Tennessee River, Mile 646.4-649.0 (Tennessee).
76. 1 day - first Sunday in August	Above the Fold Events/ Riverbluff Triathlon	Ashland City, TN	Cumberland River, Mile 157.0-159.5 (Tennessee)

77. 3 days - First weekend in June	Outdoor Chattanooga/ Chattanooga Swim Festival	Chattanooga, TN	Tennessee River, Mile 454.0-468.0 (Tennessee)
78. 1 day - Fourth or fifth weekend in September	Knoxville Open Water Swimmers/ Bridges to Bluffs	Knoxville, TN	Tennessee River, Mile 641.0-648.0 (Tennessee)
79. 1 day – Third Sunday in September	Team Rocket Tri Club/Swim Hobbs Island	Huntsville, AL	Tennessee River, Mile 332.3-338.0 (Alabama)

Dated: May 7, 2018.

M. B. Zamperini,
Captain, U. S. Coast Guard,
Captain of the Port Sector Ohio Valley.
[FR Doc. 2018-10087 Filed: 5/11/2018 8:45 am; Publication Date: 5/14/2018]